

## **The Railroad Competition Improvement and Reauthorization Act of 2005**

**SEC 1. SHORT TITLE.** The Act is entitled the Railroad Competition Improvement and Reauthorization Act of 2005. This section also clarifies that the Act is amending Title 49, United States Code.

**SEC 2. CLARIFIES RAIL TRANSPORTATION POLICY.** Ensures that the primary objectives of our Nation's rail transportation policy are: to maintain consistent and efficient rail transportation service for shippers, including the timely provision of rail cars requested by shippers; to promote effective competition among rail carriers at origins and destinations; and to maintain reasonable rates in the absence of effective competition.

**SEC 3. ELIMINATES BOTTLENECKS.** Requires a rail carrier, upon a shipper's request, to provide a rate for transportation and service, between any two points on the carrier's system where traffic originates, terminates, or can reasonably be interchanged.

**SEC 4. ELIMINATES BARRIERS TO COMPETITION.** Prevents the creation of "paper barriers," which restrict the ability of Class II and Class III rail carriers to interchange traffic with Class I carriers. These barriers prevent short line railroads that cross two or more major rail systems from providing customers access to competition by requiring that the short line deliver all or most of its traffic to the major carrier that originally owned the short line facilities. Where such restrictions have been approved prior to the enactment of this Act and have been in effect for at least 10 years, the STB must terminate the restriction, upon request, unless the Board finds that the termination would be inconsistent with the public interest or materially impair the ability of an affected rail carrier to provide service to the public.

**SEC 5. CREATES COMPETITIVE RAIL SERVICE AT SWITCHING POINTS.** Requires rail carriers to enter into reciprocal switching agreements, where the STB finds that such agreements are in the public interest or where such agreements are needed to ensure rail service is competitive.

**SEC 6. ESTABLISHES AREAS OF INADEQUATE RAIL COMPETITION.** Allows the Surface Transportation Board to designate a State or substantial part of a State as an Area of Inadequate Rail Competition, upon petition of the Governor or Attorney General of a State, Member of Congress, or the Rail Customer Advocate of the Department of Transportation. Upon the designation, the STB has 60 days to provide remedies authorized by current law to resolve the anti-competitive conduct. Also requires the Rail Customer Advocate to conduct an oversight study of Areas of Inadequate Rail Competition within one year of the date of enactment.

**SEC 7. HIGHLIGHTS RAIL SERVICE PROBLEMS.** Requires the STB to post on its website a description of each complaint from a customer about rail service. The Board is also required to submit an annual report to Congress regarding rail service complaints, and the procedures the Board took to resolve them.

**SEC 8. CREATES AN ARBITRATION PROCESS FOR CERTAIN RAIL DISPUTES.** Allows either party to submit a dispute over rail rates, rail service, and other matters under the jurisdiction of the Surface Transportation Board for "final offer" arbitration.

**SEC 9. ELIMINATES EXCESSIVE FEES FOR FILING RAIL RATE CASES.** Shippers are required to pay a \$61,000 fee for filing a rate case. Effective May 6, 2005, this filing fee will double to \$102,000. The filing fee for all other complaints will increase from \$6000 to \$10,100.

**SEC 10. IMPROVES THE RATE REASONABLENESS STANDARD.** Prohibits the Board from using their current practice of requiring shippers challenging rail rates to submit estimates of the costs of constructing and operating a new, hypothetical railroad that carries only the commodity that the shipper transports. The STB currently compares the expense of the hypothetical railroad with existing rates thereby determining whether the challenged rates are reasonable or not. The STB would be required to adopt a new method based on the railroad's actual costs, including a portion of fixed costs and an adequate return on debt and equity.

**SEC 11. CREATES AN OFFICE OF RAIL CUSTOMER ADVOCACY IN THE DOT.** The Rail Customer Advocate would accept rail customer complaints; collect, compile, and maintain information regarding the cost and efficiency of rail transportation; and participate as a party in STB proceedings. The Rail Customer Advocate may also petition the STB for action.

**SEC 12. AUTHORIZES A STUDY OF RAIL TRANSPORTATION COMPETITION.** Requires the National Academy of Sciences to conduct a comprehensive study of rail carrier competition since the enactment of the Staggers Rail Act of 1980.

**SEC 13. REQUIRES THE STB TO CONSIDER THE EFFECTS OF MERGERS.** The Board must consider the effects of mergers on local communities and is required to impose conditions to mitigate the effects of those mergers.

**SEC 14. REAUTHORIZES THE STB.** The Board has not been reauthorized since initial authorization following termination of the Interstate Commerce Commission in 1995. The bill provides the Board \$24 million for FY2006, \$26 million for FY2007, and \$28 million for FY2008.